

## § 34.2

## 42 CFR Ch. I (10–1–99 Edition)

### § 34.2 Definitions.

As used in this part, terms shall have the following meanings:

(a) *CDC*. Centers for Disease Control, Public Health Service, U.S. Department of Health and Human Services.

(b) *Communicable disease of public health significance*. Any of the following diseases:

- (1) Chancroid.
- (2) Gonorrhea.
- (3) Granuloma inguinale.
- (4) Human immunodeficiency virus (HIV) infection.
- (5) Leprosy, infectious.
- (6) Lymphogranuloma venereum.
- (7) Syphilis, infectious stage.
- (8) Tuberculosis, active.

(c) *Civil surgeon*. A physician, with not less than 4 years' professional experience, selected by the District Director of INS to conduct medical examinations of aliens in the United States who are applying for adjustment of status to permanent residence or who are required by the INS to have a medical examination.

(d) *Class A medical notification*. Medical notification of:

- (1) A communicable disease of public health significance;
- (2)(i) A physical or mental disorder and behavior associated with the disorder that may pose, or has posed, a threat to the property, safety, or welfare of the alien or others;
- (ii) A history of a physical or mental disorder and behavior associated with the disorder, which behavior has posed a threat to the property, safety, or welfare of the alien or others and which behavior is likely to recur or lead to other harmful behavior; or
- (3) Drug abuse or addiction.

(e) *Class B medical notification*. Medical notification of a physical or mental abnormality, disease, or disability serious in degree or permanent in nature amounting to a substantial departure from normal well-being.

(f) *Director*. The Director of the Centers for Disease Control.

(g) *Drug abuse*. The non-medical use of a substance listed in section 202 of the Controlled Substances Act, as amended (21 U.S.C. 802) which has not necessarily resulted in physical or psychological dependence.

(h) *Drug addiction*. The non-medical use of a substance listed in section 202 of the Controlled Substances Act, as amended (21 U.S.C. 802) which has resulted in physical or psychological dependence.

(i) *INS*. Immigration and Naturalization Service, U.S. Department of Justice.

(j) *Medical examiner*. A panel physician, civil surgeon, or other physician designated by the Director to perform medical examinations of aliens.

(k) *Medical hold document*. A document issued to the INS by a quarantine inspector of the Public Health Service at a port of entry which defers the inspection for admission until the cause of the medical hold is resolved.

(l) *Medical notification*. A document issued to a consular authority or the INS by a medical examiner, certifying the presence or absence of:

- (1) A communicable disease of public health significance;
- (2)(i) A physical or mental disorder and behavior associated with the disorder that may pose, or has posed, a threat to the property, safety, or welfare of the alien or others;
- (ii) A history of a physical or mental disorder and behavior associated with the disorder, which behavior has posed a threat to the property, safety, or welfare of the alien or others and which behavior is likely to recur or lead to other harmful behavior;
- (3) Drug abuse or addiction; or
- (4) Any other physical abnormality, disease, or disability serious in degree or permanent in nature amounting to a substantial departure from normal well-being.

(m) *Medical officer*. A physician of the Public Health Service Commissioned Corps assigned by the Director to conduct physical and mental examinations of aliens.

(n) *Mental disorder*. A currently accepted psychiatric diagnosis, as defined by the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association, or by other authoritative sources.

(o) *Panel physician*. A physician selected by a United States embassy or consulate to conduct medical examinations of aliens applying for visas.

(p) *Physical disorder.* A currently accepted medical diagnosis, as defined by the Manual of the International Classification of Diseases, Injuries, and Causes of Death published by the World Health Organization, or by other authoritative sources.

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### § 34.3 Scope of examinations.

(a) *General.* In performing examinations, medical examiners shall consider those matters that relate to:

(1) A communicable disease of public health significance;

(2)(i) A physical or mental disorder and behavior associated with the disorder that may pose, or has posed, a threat to the property, safety, or welfare of the alien or others;

(ii) A history of a physical or mental disorder and behavior associated with the disorder, which behavior has posed a threat to the property, safety, or welfare of the alien or others and which behavior is likely to recur or lead to other harmful behavior;

(3) Drug abuse or addiction; and

(4) Any other physical abnormality, disease, or disability serious in degree or permanent in nature amounting to a substantial departure from normal well-being.

The scope of the examination shall include any laboratory or additional studies that are deemed necessary, either as a result of the physical examination or pertinent information elicited from the alien's medical history, for the examining physician to reach a conclusion about the presence or absence of a physical or mental abnormality, disease, or disability.

(b) *Persons subject to requirement for chest X-ray examination and serologic testing.* (1) Except as provided in paragraph (b)(1)(v) of this section, a chest X-ray examination, serologic testing for syphilis and serologic testing for HIV of persons 15 years of age and older shall be required as part of the examination of:

(i) Applicants for immigrant visas;

(ii) Students, exchange visitors, and other applicants for a nonimmigrant visa who are required by a consular authority to have a medical examination;

(iii) Aliens outside the United States who apply for refugee status;

(iv) Applicants in the United States who apply for adjustment of status under the immigration statute and regulations;

(v) *Exceptions.* Neither a chest X-ray examination nor serologic testing for syphilis and HIV shall be required if the alien is under the age of 15. Provided, a tuberculin skin test shall be required if there is evidence of contact with a person known to have tuberculosis or other reason to suspect tuberculosis, and a chest X-ray examination shall be required in the event of a positive tuberculin reaction, and serologic testing where there is reason to suspect infection with syphilis or HIV. Additional exceptions to the requirement for a chest X-ray examination may be authorized for good cause upon application approved by the Director.

(2) *Tuberculin skin test examination.* (i) All aliens 2 years of age or older in the United States who apply for adjustment of status to permanent residents, under the immigration laws and regulations, or other aliens in the United States who are required by the INS to have a medical examination in connection with a determination of their admissibility, shall be required to have a tuberculin skin test. Exceptions to this requirement may be authorized for good cause upon application approved by the Director. In the event of a positive tuberculin reaction, a chest X-ray examination shall be required. If the chest radiograph is consistent with tuberculosis, the alien shall be referred to the local health authority for evaluation. Evidence of this evaluation shall be provided to the civil surgeon before a medical notification may be issued.

(ii) Aliens less than 2 years old shall be required to have a tuberculin skin test if there is evidence of contact with a person known to have tuberculosis or other reason to suspect tuberculosis. In the event of a positive tuberculin reaction, a chest X-ray examination shall be required. If the chest radiograph is consistent with tuberculosis, the alien shall be referred to the local health authority for evaluation. Evidence of this evaluation shall be provided to the